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ALI MOSLEH

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EXAMINER

SOMERS, MARC S

ART UNIT

PAPER NUMBER

2169

NOTIFICATION DATE

DELIVERY MODE

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ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 09/385,299	<b>Applicant(s)</b> MOSLEH ET AL.	
	<b>Examiner</b> MARC SOMERS	<b>Art Unit</b> 2169	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 093 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 30-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 and 30-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 August 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. The amendments were received on 6/18/2008. Claims 1-17 and 30-54 are pending where claims 1-17 and 30-54 were previously presented and claims 18-29 were cancelled.

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "20" and "22" have both been used to designate "Point of Care Terminal" and reference characters "40" and "42" have both been used to designate "Network Server Computers".

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "310" has been used to designate both "Cordless Telephone transceiver" in Figure 3 and "Search ICC database for patient name" in Figure 9.

4. The drawings are objected to because Figure 3 represents reference character "20" when the specification describes Figure 3 as reference character "40" and Figure 8 represents reference character "220" when the specification describes Figure 8 as reference character "230".

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 288 and 290.

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6. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

7. Color photographs and color drawings are not accepted unless a petition filed under 37 CFR 1.84(a)(2) is granted. Any such petition must be accompanied by the appropriate fee set forth in 37 CFR 1.17(h), three sets of color drawings or color photographs, as appropriate, and, unless already present, an amendment to include the following language as the first paragraph of the brief description of the drawings section of the specification:

The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.

Color photographs will be accepted if the conditions for accepting color drawings and black and white photographs have been satisfied. See 37 CFR 1.84(b)(2).

***Specification***

8. The disclosure is objected to because of the following informalities: Is the wireless Ethernet transceiver 410 in line 21 on page 17 the same thing as the Cordless Telephone transceiver 410 in Figure 3? Appropriate correction is required.
9. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

***Claim Objections***

10. Claims 32-33 are objected to because of the following informalities: missing a semi-colon between "profile" and "transmitting" in the third section of claim 32 starting with the sentence "searching an internal database..." Appropriate correction is required. Claim 32 is substantially similar to claim 3; however, there appears to be a typographical error since claim 32 is missing a semi-colon between two different claim limitations thereby causing a grammatical error in claims 32 and 33.

***Claim Rejections - 35 USC § 101***

11. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 30-46 and 49-50 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

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The claims fail to place the invention squarely within one statutory class of invention. On page 27 of the instant specification at lines 17-20, applicant has provided evidence that applicant intends the “medium” to include signals. As such, the claim is directed to subject matter that is not statutory i.e. not a process, machine, manufacture, or composition of matter.

The specification at lines 17-20 on page 27 recite:

Although aspects of the present invention are described as being stored in memory, one skilled in the art will appreciate that these aspects can also **be stored on or read from** other types of computer-readable medium, such as secondary storage devices, like hard disks, floppy disks, or CD-ROMs; **a carrier wave from the Internet**; or other forms of RAM or ROM.  
[emphasis added]

It is unclear whether the applicant intends that both the “stored on or read from” clauses to apply to a carrier wave or if the carrier wave is only read from the Internet. However, since the grammatical structure of sentence implies that the invention can be stored on a carrier wave from the Internet, the claims are directed signals. The Examiner advises the applicant to clearly distinguish between which computer readable medium can store the invention or to remove references of signals from the specification.

***Claim Rejections - 35 USC § 103***

12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 7, 9, 10, 12, 15, 16, 36, 38, 39, 41, 44, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al [US 5,867,821] in view of Cohn et al [5,740,231].

15. With regard to claim 7, Ballantyne teaches receiving a request from said portable access device to access a network server (see col 11, lines 24-27 and col 12, lines 35-37; the portable access devices attempts to access a network server);

and establishing a communication link between said portable access device and said network server using a communication channel that is selected based on said communication profile and a location of said portable access device with respect to said

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network server, wherein said communication channel is selected from the group consisting of: local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PSTN) (see col 12, lines 35-37; the portable access device attempts to establish a communication link between itself and the first network associated with the PCS using a wireless LAN connection using IR or wireless communication channel).

16. Ballantyne does not explicitly teach identifying a communication profile associated with said network server; transmitting said communication profile to said portable access device.

17. Cohn teaches identifying a communication profile associated with said network server; transmitting said communication profile to said portable access device (see col 7, lines 59-66; a database with communication protocols is kept so that the communication system can use that information to integrate and interconnect disparate sources and technologies of communication traffic and translate messages between the between the disparate sources; a database is searched for a communication profile and retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages).

18. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Ballantyne by incorporating the database of communication profiles as taught by Cohn in order to allow the communication system to identify the different communication



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media/channels that are used to communicate data with the central server so that any medical personal can use any communication channel associated with a communication profile thus enabling the central server to be able to communicate successfully with various disparate networks that are trying to communicate information with the central server.

19. With regard to claim 9, Ballantyne in view of Cohn teach accessing a central database; searching said central database for a communication profile associated with said network server; and retrieving said communication profile (see Cohn, col 7, lines 59-66; a database is searched for a communication profile and retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages).

20. With regard to claim 10, Ballantyne in view of Cohn teach configuring said portable access device to transmit using one of a plurality of communication channels in accordance with said communication profile; verifying the availability of said communication channel; and initiating communication between said portable access device and said network server using one of said communication channels (see Ballantyne, col 12, lines 35-37; see Cohn, col 7, lines 59-66; the PDA is configured with a particular communication profile and transmits the modified health records when the communication channel/medium is available).

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21. With regard to claim 12, Ballantyne teaches transmitting from said portable access device to a first network server, a request to access a second network server; receiving said request at said first network server (see col 11, lines 24-27 and col 12, lines 35-37; the portable access devices attempts to access a network server);

and establishing a communication link between said portable access device and said second network server using a communication channel that is selected based on said communication profile and a location of said portable access device with respect to said second network server, wherein said communication channel is selected from the group consisting of: local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PSTN) (see col 12, lines 35-37; the portable access device attempts to establish a communication link between itself and the first network associated with the PCS using a wireless LAN connection using IR or wireless communication channel).

22. Ballantyne does not explicitly teach identifying a communication profile associated with said second network server; transmitting said communication profile from said first network server to said portable access device.

23. Cohn teaches identifying a communication profile associated with said second network server; transmitting said communication profile from said first network server to said portable access device (see col 7, lines 59-66; a database with communication protocols is kept so that the communication system can use that information to integrate and interconnect disparate sources and technologies of communication traffic and translate messages between the between the disparate sources; a database is

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searched for a communication profile and retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages).

24. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Ballantyne by incorporating the database of communication profiles as taught by Cohn in order to allow the communication system to identify the different communication media/channels that are used to communicate data with the central server so that any medical personal can use any communication channel associated with a communication profile thus enabling the central server to be able to communicate successfully with various disparate networks that are trying to communicate information with the central server.

25. With regard to claim 15, Ballantyne in view of Cohn teach accessing a central database; and retrieving a communication profile that corresponds to said second network server (see Cohn, col 7, lines 59-66; a database is searched for a communication profile and retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages).

26. With regard to claim 16, Ballantyne in view of Cohn teach configuring said portable access device to transmit using one of a plurality of communication channels in

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accordance with said communication profile; verifying the availability of said communication channel; and initiating communication between said portable access device and said second network server along said communication channel (see Ballantyne, col 12, lines 35-37; see Cohn, col 7, lines 59-66; the PDA is configured with a particular communication profile and transmits the modified health records when the communication channel/medium is available).

27. With regard to claims 36, 38, 39, 41, 44, and 45, these claims are substantially similar to claims 7, 9, 10, 12, 15, 16 respectively and are rejected for the same reasons as discussed above. The only difference between claims 36, 38, 39, 41, 44, and 45 from claims 7, 9, 10, 12, 15, 16 is that claims 36, 38, 39, 41, 44, and 45 recite a computer-readable storage medium (see Ballantyne, col 6, lines 20-28; various computer readable storage medium can be used).

28. Claims 1-3, 5, 8, 13, 30-32, 34, 37, 42, 47, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al [US 5,867,821] in view of Cohn et al [5,740,231] and Ishizuka et al [US 5,805,666].

29. With regard to claim 1, Ballantyne teaches attempting, by the portable access device, to establish a communication link between the portable access device and the first network server using communication channel that is selected by the portable

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access device and a location of the portable access device with respect to the first network server, wherein the communication channel is selected from the group consisting of: a local wireless LAN, a remote wireless LAN, a wireline LAN, and a Public Switched Telephone Network (PSTN) (see col 12, lines 35-37; the portable access device attempts to establish a communication link between itself and the first network associated with the PCS using a wireless LAN connection using IR or wireless communication channel).

30. Ballantyne teaches that memory is used on the portable access device (see col 12, lines 60-63) but does not explicitly teach identifying a communication profile associated with a first network server; and capturing data received by the portable access device in a memory located in the portable access device in accordance with a failed attempt to establish the communication link.

31. Cohn teaches identifying a communication profile associated with a first network server (see col 7, lines 59-66; a database with communication protocols is kept so that the communication system can use that information to integrate and interconnect disparate sources and technologies of communication traffic and translate messages between the between the disparate sources).

32. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Ballantyne by incorporating the database of communication profiles as taught by Cohn in order to allow the communication system to identify the different communication media/channels that are used to communicate data with the central server so that any

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medical personal can use any communication channel associated with a communication profile thus enabling the central server to be able to communicate successfully with various disparate networks that are trying to communicate information with the central server.

33. Ballantyne in view of Cohn teach that memory is used on the portable access device (see Ballantyne, col 12, lines 60-63) but do not explicitly teach capturing data received by the portable access device in a memory located in the portable access device in accordance with a failed attempt to establish the communication link.

34. Ishizuka teaches capturing data received by the portable access device in a memory located in the portable access device in accordance with a failed attempt to establish the communication link (see col 15, lines 40-43; when a failure of communication/connection is identified, memory can be used to store data and information so that the data can be transferred later).

35. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Ballantyne in view of Cohn by storing the data/information to be transmitted in memory as taught by Ishizuka in order to improve system integrity by storing the data that could not be transmitted in memory thus enabling the portable device to be able to continue operation and be able to update the central server at a later time when a successful communication link has been established.

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36. With regard to claim 2, Ballantyne in view of Cohn and Ishizuka teach searching an internal database for a communication profile associated with the first network server; and retrieving said communication profile from the internal database (see Cohn, col 7, lines 59-66; a database is searched for a communication profile and retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages).

37. With regard to claim 3, Ballantyne teaches transmitting from the portable access device to a second network server, a request to access the first network server when the communication profile cannot be found in the internal database (see col 11, lines 24-27 and col 12, lines 35-37; communication is transferred over a wireless network to the PCS when the portable access device is trying to contact the ML network);

attempting, by the portable access device, to establish a communication link between the portable access device and the first network server using one of a plurality of communication media, in accordance with the communication profile, wherein the one of a plurality of communication media is selected from the group consisting of: a local wireless LAN, a remote wireless LAN, a wireline LAN, and a Public Switched Telephone Network (PSTN) (see col 12, lines 35-37; the portable access device attempts to establish a communication link between itself and the first network associated with the PCS using a wireless LAN connection using IR or wireless communication channel).

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38. Ballantyne teaches that memory is used on the portable access device (see col 12, lines 60-63) but does not explicitly teach identifying, by the portable access device, a communication profile associated with a first network server, wherein the identifying a comprises: searching an internal database for the communication profile; and retrieving the communication profile from the second network server; and capturing data in a memory location in accordance with a failed attempt to establish the communication link.

39. Cohn teaches identifying, by the portable access device, a communication profile associated with a first network server (see col 7, lines 59-66; a database with communication protocols is kept so that the communication system can use that information to integrate and interconnect disparate sources and technologies of communication traffic and translate messages between the between the disparate sources), wherein the identifying a comprises:

searching an internal database for the communication profile; and retrieving the communication profile from the second network server (see Cohn, col 7, lines 59-66; a database is searched for a communication profile and retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages).

40. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Ballantyne by incorporating the database of communication profiles as taught by Cohn in order to allow the communication system to identify the different communication



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media/channels that are used to communicate data with the central server so that any medical personal can use any communication channel associated with a communication profile thus enabling the central server to be able to communicate successfully with various disparate networks that are trying to communicate information with the central server.

41. Ballantyne in view of Cohn teach that memory is used on the portable access device (see Ballantyne, col 12, lines 60-63) but do not explicitly teach capturing data in a memory location in accordance with a failed attempt to establish the communication link.

42. Ishizuka teaches capturing data in a memory location in accordance with a failed attempt to establish the communication link (see col 15, lines 40-43; when a failure of communication/connection is identified, memory can be used to store data and information so that the data can be transferred later).

43. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Ballantyne in view of Cohn by storing the data/information to be transmitted in memory as taught by Ishizuka in order to improve system integrity by storing the data that could not be transmitted in memory thus enabling the portable device to be able to continue operation and be able to update the central server at a later time when a successful communication link has been established.

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44. With regard to claim 5, Ballantyne in view of Cohn and Ishizuka teach configuring said portable access device to transmit using one of a plurality of communication channels, in accordance with said communication profile; verifying the availability of said communication channel; and initiating communication between said portable access device and said network server along said communication channel (see Ballantyne, col 12, lines 35-37; see Cohn, col 7, lines 59-66; the PDA is configured with a particular communication profile and transmits the modified health records when the communication channel/medium is available).

45. With regard to claim 8, Ballantyne in view of Cohn teach all the limitations of claim 7 as discussed above.

46. Ballantyne in view of Cohn teach that memory is used on the portable access device (see Ballantyne, col 12, lines 60-63) but do not explicitly teach configuring said portable access device to capture data in memory in accordance with a failed attempt to establish said communication link.

47. Ishizuka teaches configuring said portable access device to capture data in memory in accordance with a failed attempt to establish said communication link (see col 15, lines 40-43; when a failure of communication/connection is identified, memory can be used to store data and information so that the data can be transferred later).

48. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Ballantyne in view of Cohn by storing the data/information to be transmitted in memory

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as taught by Ishizuka in order to improve system integrity by storing the data that could not be transmitted in memory thus enabling the portable device to be able to continue operation and be able to update the central server at a later time when a successful communication link has been established.

49. With regard to claim 13, Ballantyne in view of Cohn teach all the limitations of claim 12 as discussed above.

50. Ballantyne in view of Cohn teach that memory is used on the portable access device (see Ballantyne, col 12, lines 60-63) but do not explicitly teach configuring said portable access device to capture data in memory in accordance with a failed attempt to establish said communication link.

51. Ishizuka teaches configuring said portable access device to capture data in memory in accordance with a failed attempt to establish said communication link (see col 15, lines 40-43; when a failure of communication/connection is identified, memory can be used to store data and information so that the data can be transferred later).

52. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Ballantyne in view of Cohn by storing the data/information to be transmitted in memory as taught by Ishizuka in order to improve system integrity by storing the data that could not be transmitted in memory thus enabling the portable device to be able to continue operation and be able to update the central server at a later time when a successful communication link has been established.

53. With regard to claim 47, Ballantyne in view of Cohn and Ishizuka teach searching an internal database of the portable access device for the communication profile associated with the first network server (see Cohn, col 7, lines 59-66; a database is searched for a communication profile and retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages);

54. transmitting from the portable access device to a second network server, a request to access the first network server when the communication profile cannot be found in the internal database (see Ballantyne, col 11, lines 24-27 and col 12, lines 35-37; communication is transferred over a wireless network to the PCS when the portable access device is trying to contact the ML network);

and retrieving the communication profile server from the second network server (see Cohn, col 7, lines 59-66; a database is searched for a communication profile and retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages).

55. With regard to claims 30-32, 34, 37, 42, and 49, these claims are substantially similar to claims 1-3, 5, 8, 13, and 47 respectively and are rejected for the same reasons as discussed above. The only difference between claims 30-32, 34, 37, 42, and 49 and claims 1-3, 5, 8, 13, and 47 is that claims 30-32, 34, 37, 42, and 49 recite a

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computer-readable storage medium (see Ballantyne, col 6, lines 20-28; various computer readable storage medium can be used).

56. Claims 11, 14, 17, 40, 43, 46, and 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al [US 5,867,821] in view of Cohn et al [5,740,231] and in further view of Spaur et al [US 5,732,074].

57. With regard to claim 11, Ballantyne in view of Cohn teach all the claim limitations of claim 7 as discussed above.

58. Ballantyne in view of Cohn teach transmitting a first request from the portable access device to a local wireless LAN transceiver; transmitting a second request from the portable access device to a remote wireless transceiver when a communication link cannot be established with the local wireless LAN transceiver (see Ballantyne, col 11, lines 24-27 and col 12, lines 35-37 & 60-63; the portable access device tries to communicate with a network server through a local wireless LAN transceiver using IR technology or will transmit through a remote wireless LAN transceiver using standard wireless technology).

59. Ballantyne in view of Cohn do teach that a twisted pair and other phone connection means can be used to communicate to a network (see Ballantyne, Figure 1 and col 11, lines 41-45; phone/modem communication means can be used to facilitate communication of information to remote locations) but do not teach connecting the

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portable access device to a public switched telephone network (PSTN) when a communication link cannot be established with the remote wireless transceiver.

60. Spaur teaches connecting the portable access device to a public switched telephone network (PSTN) when a communication link cannot be established with the remote wireless transceiver (see col 2, lines 25-29 & 56-65 and col 6, lines 8-11; a portable device includes a cellular phone which is used to communicate with a remote environment).

61. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Ballantyne in view of Cohn by incorporating phone interface/communication equipment/hardware in a portable device as taught by Spaur in order to relay critical life-saving information to and from the health information network when the portable device is out of range of the shorter ranged wireless communication schemes such as infra red communications.

62. With regard to claims 14, 17, 40, 43, and 46, these claims are substantially similar to claim 11 and are rejected for the same reasons as discussed above.

63. With regard to claim 51, Ballantyne teaches attempting, by the portable access device, to establish a communication link between the portable access device and the first server (see col 12, lines 35-37; the portable access device attempts to establish a

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communication link between itself and the first network associated with the PCS using a wireless LAN connection using IR or wireless communication channel), wherein the attempting includes initiating a first attempt to establish communication with the first server via a local wireless network, initiating a second attempt to establish communication via a remote wireless network if the first attempts fails (see col 11, lines 24-27 and col 12, lines 35-37 & 60-63; the portable access device tries to communicate with a network server through a local wireless LAN transceiver using IR technology or will transmit through a remote wireless LAN transceiver using standard wireless technology) and accessing the information from the first server when the communication link is established (see col 11, lines 24-27; information is accessed from the server).

64. Ballantyne does not explicitly teach identifying, by the access device, a communication profile associated with a first server; and initiating a third attempt to establish communication via a public switched telephone network if the second attempt fails.

65. Cohn teaches identifying a communication profile associated with a first network server (see col 7, lines 59-66; a database with communication protocols is kept so that the communication system can use that information to integrate and interconnect disparate sources and technologies of communication traffic and translate messages between the between the disparate sources).

66. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Ballantyne by incorporating the database of communication profiles as taught by Cohn

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in order to allow the communication system to identify the different communication media/channels that are used to communicate data with the central server so that any medical personal can use any communication channel associated with a communication profile thus enabling the central server to be able to communicate successfully with various disparate networks that are trying to communicate information with the central server.

67. Ballantyne in view of do teach that a twisted pair and other phone connection means can be used to communicate to a network (see Ballantyne, Figure 1 and col 11, lines 41-45; phone/modem communication means can be used to facilitate communication of information to remote locations) but do not teach connecting the portable access device to a public switched telephone network (PSTN) when a communication link cannot be established with the remote wireless transceiver.

68. Spaur teaches connecting the portable access device to a public switched telephone network (PSTN) when a communication link cannot be established with the remote wireless transceiver (see col 2, lines 25-29 & 56-65 and col 6, lines 8-11; a portable device includes a cellular phone which is used to communicate with a remote environment).

69. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Ballantyne in view of Cohn and Ishizuka by incorporating phone interface/communication equipment/hardware in a portable device as taught by Spaur in order to relay critical life-saving information to and from the health information network



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when the portable device is out of range of the shorter ranged wireless communication schemes such as infra red communications.

70. With regard to claim 52, Ballantyne in view of Cohn and Spaur teach determining, by the access device, whether or not the communication profile is stored locally by the access device; and establishing communication with a second server to retrieve the communication profile, if the communication profile is not stored locally (see Cohn, col 7, lines 59-66; a database is searched for a communication profile and retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages).

71. With regard to claim 53, this claim is substantially similar to claims 14 and 17 and is rejected for the same reasons as discussed above.

72. Claims 4, 6, 33, 35, 48, 50, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al [US 5,867,821] in view of Cohn et al [5,740,231] and Ishizuka et al [US 5,805,666] in further view of Spaur et al [US 5,732,074].

73. With regard to claim 4, Ballantyne in view of Cohn and Ishizuka teach all the claim limitations of claim 3 as discussed above.

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74. Ballantyne in view of Cohn and Ishizuka teach transmitting a first request from the portable access device to a local wireless LAN transceiver; transmitting a second request from the portable access device to a remote wireless transceiver when a communication link cannot be established with the local wireless LAN transceiver (see Ballantyne, col 11, lines 24-27 and col 12, lines 35-37 & 60-63; the portable access device tries to communicate with a network server through a local wireless LAN transceiver using IR technology or will transmit through a remote wireless LAN transceiver using standard wireless technology).

75. Ballantyne in view of Cohn and Ishizuka do teach that a twisted pair and other phone connection means can be used to communicate to a network (see Ballantyne, Figure 1 and col 11, lines 41-45; phone/modem communication means can be used to facilitate communication of information to remote locations) but do not teach connecting the portable access device to a public switched telephone network (PSTN) when a communication link cannot be established with the remote wireless transceiver.

76. Spaur teaches connecting the portable access device to a public switched telephone network (PSTN) when a communication link cannot be established with the remote wireless transceiver (see col 2, lines 25-29 & 56-65 and col 6, lines 8-11; a portable device includes a cellular phone which is used to communicate with a remote environment).

77. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Ballantyne in view of Cohn and Ishizuka by incorporating phone

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interface/communication equipment/hardware in a portable device as taught by Spaur in order to relay critical life-saving information to and from the health information network when the portable device is out of range of the shorter ranged wireless communication schemes such as infra red communications.

78. With regard to claims 6, 33, 35, 48, and 50, these claims are substantially similar to claim 4 and are rejected for the same reasons as discussed above.

79. With regard to claim 54, Ballantyne in view of Cohn and Spaur teach all the limitations of claim 51 as discussed above.

80. Ballantyne in view of Cohn and Spaur teach that memory is used on the portable access device (see Ballantyne, col 12, lines 60-63) but do not explicitly teach configuring the access device to operate in a local capture mode such that data received by the access device is stored in a memory located in the access device, if the third attempt fails.

81. Ishizuka teaches configuring the access device to operate in a local capture mode such that data received by the access device is stored in a memory located in the access device, if the third attempt fails (see col 15, lines 40-43; when a failure of communication/connection is identified, memory can be used to store data and information so that the data can be transferred later).

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82. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Ballantyne in view of Cohn and Spaur by storing the data/information to be transmitted in memory as taught by Ishizuka in order to improve system integrity by storing the data that could not be transmitted in memory thus enabling the portable device to be able to continue operation and be able to update the central server at a later time when a successful communication link has been established.

### ***Duplicate Claims***

83. Applicant is advised that should claims 14 and 17 be found allowable, claims 14 and 17 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k). Both claims are directed towards the process of sending a request to access a second network server and both claim 14 and 17 depend upon claim 12.

84. Applicant is advised that should claims 43 and 46 be found allowable, claims 43 and 46 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed

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claim. See MPEP § 706.03(k). Both claims are directed towards the process of sending a request to access a second network server and both claim 43 and 46 depend upon claim 41.

### ***Response to Arguments***

85. Applicant's arguments (see first paragraph on page 21 through the second to last paragraph on page 21) have been fully considered but they are not persuasive. The applicant has amended claims 30-46 and 49-50 to incorporate the limitation "storage" in the phrase "computer readable medium" thus directing the claims to a "computer readable storage medium." The applicant also directs the Examiner's attention to MPEP 2106.01. The applicant has not clarified their position as to the relevance of the cited portion of the MPEP since the claim limitation "computer readable storage medium" is directed to a signal/carrier wave (see Applicant's specification at page 27, lines 17-20). As discussed in the 35 USC 101 rejection above, the claims are directed towards a signal/carrier wave thus the claims are non-statutory.

86. Applicant's arguments (see last paragraph on page 21 through the last paragraph on page 25) with respect to the 35 USC 112 rejections of the claims have been fully considered and are persuasive. The 35 USC 112 rejections of the claims have been withdrawn. The applicant has amended the claims and also provided arguments as to why the amendments overcome the 35 USC 112 rejections to the claims. The applicant points to various portions of their specification to provide support

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to their arguments. In particular, the applicant points to page 8, lines 8-11 to indicate that communication profiles “must be utilized by one network entity wishing to communicate with another network device”. The specification at page 10, line 27 through page 11, line 5 discusses how the PCMCIA communications channels are scanned to find the optimum channel in order to establish a connection. As such, it appears that the claimed invention is enabled by the specification therefore the 35 USC 112 rejections to the claims have been withdrawn.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARC SOMERS whose telephone number is (571)270-3567. The examiner can normally be reached on 8 am - 4 pm EST Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trujillo can be reached on (571) 272-3677. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. S./  
Examiner, Art Unit 2169  
MS  
10/30/2008

/James Trujillo/  
Supervisory Patent Examiner, Art  
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